

Decision

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of West Sacramento for an Order authorizing construction of a crossing at grade between Lake Washington Boulevard and the tracks of the Yolo Shortline Railroad Company.

Application 02-05-054  
(Filed May 23, 2002)

**O P I N I O N****Summary**

The City of West Sacramento (Applicant) is authorized to construct an at-grade crossing over the tracks of the Yolo Shortline Railroad (Railroad) at Lake Washington Blvd.

**Procedural History**

This application was filed by Applicant on May 23, 2002. The Rail Crossings Engineering Section of the Consumer Protection and Safety Division (RCES) filed a protest on June 27, 2002. Following a Prehearing Conference held on September 18, 2002, the matter was set for hearing on January 13-14, 2003. At the request of Applicant, the hearing dates were moved to February 18-19, 2003. Applicant again requested a deferral of the evidentiary hearing, which was moved to March 20-21, 2003. By letter dated March 10, 2003, Applicant notified the Administrative Law Judge (ALJ) that a resolution of the dispute between Applicant and Commission Staff (Staff) had been reached. Applicant filed an

amended application on March 11, 2003. On that same date, the Staff withdrew its protest.

**Categorization**

This matter appeared on the Commission Calendar of June 5, 2002. It was preliminarily categorized as ratesetting and preliminarily determined not to require a hearing, pursuant to ALJ 176-3089. The categorization of ratesetting is affirmed and, with the withdrawal of Staff's protest, the determination of not requiring a hearing is affirmed.

**Discussion**

The amended application indicates agreement between Railroad and Applicant with regard to the need for the crossing and the installation of No. 8 and No. 8A automatic crossing signals, one in each direction. Expenses of construction will be apportioned between Applicant and Railroad in accordance with an agreement to be negotiated by them.

Applicant adopted the Southport Framework Development Plan and EIR on May 10, 1995 and filed a notice of Determination with the city clerk on May 15, 1995. The project bears State Clearinghouse No. 91063032.

A crossing analysis, updated to March 5, 2003, accompanied the amended application. It indicates that the trackage is used for an occasional passenger excursion train and for some storage of empty rail cars, with little increase predicted for the future. Predicted peak vehicle traffic over the crossing is 450 per hour.

Applicant requests that it be granted three years from the effective date of this order to complete the project.

**Environmental Review**

As part of a housing subdivision known as the Southport Town Center project (Southport Project), Applicant proposes to build a new at-grade highway-rail crossing over the tracks of Railroad.

Applicant is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. The City Council of Applicant, by Resolution 95-32, dated May 11, 1995, approved the Southport project. A copy of the document was available for public review at Applicant's Community Development Department at 1951 South River Road in West Sacramento. On May 15, 1995, in compliance with CEQA, Applicant filed its Notice of Determination with the State of California Office of Planning and Research and the Yolo County Clerk, approving this project and stating that the project would have a significant effect on the environment (State Clearinghouse No. 91063032). Accordingly, Applicant adopted mitigation measures as a condition of approval of the project, and submitted a Statement of Overriding Considerations (SOC) for the project (City Council Resolution No. 95-32).

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report (EIR) or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

Commission staff has reviewed Applicant's environmental documentation. The environmental documentation consists of the Final Environmental Impact Report (FEIR), City Council Resolution No. 95-32 certifying the EIR and adopting an SOC, and a subsequent Mitigated Negative Declaration (MND) including a mitigation monitoring program. We find that these environmental documents are adequate for our decision-making purposes. Analysis of potential environmental impacts included land use, natural resources, water, traffic and circulation, soils and geology, cultural resources, energy, noise, vegetation and wildlife, light and glare, risk of upset, population, housing, public services and utilities, parks and recreation and air quality.

Safety and security, transportation and noise are within the scope of the Commission's permitting process. The environmental documentation discussed police, fire and emergency services in the public services and utilities section. An impact related to safety and security was identified in the FEIR. It will be mitigated to level of non-impact, and does not relate to the proposed highway-rail crossing.

Noise impacts were identified in the FEIR related to short-term noise due to construction. The mitigation measures include limiting construction to 7:00 a.m. to 7:00 p.m. on weekdays and shall prohibit construction on weekends, and provision of an acoustical study acceptable to Applicant's Building Department prior to the issuance of any building permits.

Transportation and traffic impacts were identified in the FEIR related to the reduced Levels of Service and increased roadway traffic volumes at various intersections, including the Jefferson Boulevard/Lake Washington Boulevard near the proposed highway-rail crossing. Impacts at all intersections, including the Jefferson Boulevard/Lake Washington Boulevard can be mitigated to a level

of non-impact by requiring Southport to pay its fair share of traffic signal improvements at each intersection.

In adopting the SOC, Applicant determined that certain project benefits outweighed the significant and unavoidable impacts and warranted project approval. In particular, the SOC stated the impacts are loss of agricultural lands and air quality. Applicant found that the need for quality, balanced development outweighed the significant unavoidable impacts.

With respect to the potentially-significant noise and transportation impacts identified above that could be mitigated, the Commission finds that Applicant adopted feasible mitigation measures to either eliminate or substantially lessen those impacts. With respect to the project environmental impacts that remain significant and unavoidable, we also find that Applicant identified reasonable project benefits to justify its adoption of an SOC and project approval. Therefore, we similarly adopt and require the mitigation measures identified in Applicant's FEIR and subsequent MND and adopt the SOC, for purposes of our project approval.

### **Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Michael R. Peevey is the Assigned Commissioner and Sheldon Rosenthal is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Applicant seeks authority to construct and maintain an at-grade highway-rail crossing over the tracks of Railroad at Lake Washington Boulevard, under Public Utilities Code Sections 1201-1205.
2. Protection for the crossing will be a No. 8 and No. 8A automatic crossing signal.
3. The tracks are only used occasionally for storage of empty railroad cars and for excursion passenger trains.
4. Railroad is in support of the crossing application.
5. Railroad and Applicant will apportion expenses of construction in accordance with an agreement to be negotiated.
6. Staff withdrew its protest to the application based upon an amended application filed on March 11, 2003.
7. Applicant is the lead agency under CEQA.
8. The Commission is a responsible agency for this project and has reviewed and considered Applicant's environmental documentation upon which Applicant relied in adopting mitigation measures for the project.
9. On May 15, 1995, Applicant filed its Notice of Determination approving the project (State Clearinghouse No. 91063032) and found the Southport Framework Development Plan would have a significant effect on the environment. An SOC was adopted for this project.
10. Applicant's environmental documents are adequate for our decision-making purposes.
11. Safety and security, transportation and noise are within the scope of the Commission's permitting process.

12. The Commission finds that for each potentially significant impact related to safety and security, transportation or noise, Applicant adopted feasible mitigation measures to either eliminate or substantially lessen those impacts.

13. The Commission finds that for the environmental impacts determined to be significant and unavoidable, Applicant reasonably concluded there are sufficient project benefits to warrant project approval.

### **Conclusions of Law**

1. The proposed at-grade highway-rail crossing at Lake Washington Boulevard should be approved.
2. The proposed highway-rail crossing warning devices are adequate for the projected traffic.
3. We adopt the SOC and require the mitigation measures identified in Applicant's FEIR and subsequent MND for purposes of our project approval.
4. There is no need for an evidentiary hearing.
5. The application should be granted as set forth in the following order.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The City of West Sacramento (Applicant) is authorized to build an at-grade highway-rail crossing over the tracks of Yolo Shortline Railroad (Railroad) at Lake Washington Boulevard (Commission Crossing No. 8-89.96).
2. Warning for pedestrians and motorists shall be provided by two Commission Standard No. 8s, and two Commission Standard No 8As as found in the Commission's General Order (GO) 75-C.
3. Clearances shall be in accordance with GO 26-D.

4. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

5. Prior to construction, Applicant shall file with Consumer Protection and Safety Division's Rail Crossings Engineering Section (RCES) final construction plans.

6. Within 30 days after completion of the work under this order, Applicant shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is completed.

7. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

8. This application is granted as set forth.

9. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.